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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,677	06/26/2000	ANSGAR BEHLER	H-2938-PCT/U	8906
23657	7590	09/12/2006	EXAMINER	
COGNIS CORPORATION PATENT DEPARTMENT 300 BROOKSIDE AVENUE AMBLER, PA 19002			KEYS, ROSALYND ANN	
			ART UNIT	PAPER NUMBER
			1621	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/486,677	<b>Applicant(s)</b> BEHLER ET AL.	
	<b>Examiner</b> Rosalynd Keys	<b>Art Unit</b> 1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10, 14-26 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 14-26 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

**Status of Claims**

1. Claims 10, 14-26 and 30 are pending and have been previously presented.

Claims 10, 14-26 and 30 are rejected.

**Response to Arguments**

2. Applicant's arguments, see pages 2-4 of Applicants remarks, filed June 20, 2006, with respect to rejection of claims 10, 14-26 and 30 under 35 U.S.C. 103(a) as being unpatentable over Tominaga et al. (JP 7-303825) alone or in view of Naik et al. (US 4,731,378) or Grossmann et al. (US 4,999,041) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Schmitt et al. (US 5,516,451).

**Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10 and 23-26 are rejected under 35 U.S.C. 102(b) as anticipated by Schmitt et al. (US 5,516,451).

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Schmitt et al. teach a mixture comprising at least one fatty alcohol ethoxylate-propoxylate of formula I,  $R^1-O-(C_2H_4O)_x-(C_3H_6O)_y-H$  (see entire disclosure, in particular column 2, lines 9-55). The mixture can be employed in undiluted or aqueous concentrates (see column 2, line 56 to column 3, line 27). The cold cloud point is inherently taught, since the mixture of Schmitt et al. is the same as the instant mixture.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 10, 14-26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmitt et al. (US 5,516,451).

Schmitt et al. teach the claimed mixture and its preparation by reacting a fatty alcohol

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initially with ethylene oxide and then propylene oxide. The use of a base, in particular potassium hydroxide, as an alkoxylation catalyst is well known.

Schmitt et al. differ from the instant invention in that Schmitt et al. do not disclose the molar ratio of ethylene oxide and propylene oxide in the reaction mixture. One having ordinary skill in the art at the time the invention was made would have found it obvious to select the appropriate molar ratio of ethylene oxide and propylene oxide to obtain the desired degree of ethoxylation and propoxylation necessary to obtain the desired alkoxylation product.


Schmitt et al. further differ in that Schmitt et al. do not specifically disclose utilizing a certain amount of carbon 14 to 18 alcohols and a certain amount of carbon 6 to 12 alcohols. Schmitt et al. do however, suggest the invention since Schmitt et al. teach that a mixture of at least one alcohol having 6 to 22, preferably 8 to 18 carbon atoms may be used (see column 2, lines 9-20). Further, changes in temperature, concentrations, or other process conditions of an old process does not impart patentability unless the recited ranges are critical, i.e., they produce a new and unexpected result. In re Aller et al., (CCPA 1955) 220 F2d 454, 105 USPQ 233.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosalynn Keys whose telephone number is 571-272-0639. The examiner can normally be reached on M-W & F 5:30-8:30 am & 1-5 pm; Th 5:30 am-5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Rosalynd Keys  
Primary Examiner  
Art Unit 1621

September 5, 2006